

DOCKET NUMBER: 95-12196

ADV. NUMBER: 96-1034

JUDGE: M. A. Mahoney

PARTIES: Theresa Bosarge Dyson, Wilson Beesley

CHAPTER: 13

ATTORNEYS:

DATE: 3/5/96

KEY WORDS:

PUBLISHED:

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF ALABAMA

In Re

THERESA BOSARGE DYSON,

Case No. 95-12196-MAM

Debtor.

WILSON BEESLEY,

Plaintiff,

v.

Adv. No. 96-1034

THERESA BOSARGE DYSON,

Defendant.

ORDER

This matter is before the Court sua sponte for the Court's review of why this Court should not abstain from hearing this case pursuant to 28 U.S.C. § 1334. This Court has jurisdiction to hear this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the Order of Reference of the District Court. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). For the reasons indicated below, the Court is abstaining from hearing this adversary case and is therefore dismissing it without prejudice.

The adversary complaint of Mr. Beesley clearly sets forth the facts underlying the dispute which has arisen between Mr. Beesley and Ms. Dyson. The complaint states that a state court suit had already been filed in Mobile County prior to the filing of the Chapter 13 case that seeks to determine the nature of the relationship between the parties.

The adversary case asks this Court to allow the state court case to proceed to conclusion or to have the bankruptcy court try the issues between the parties. The issues, as best this Court can see, involve state law matters. The case was already set for trial when this bankruptcy case was filed, according to the complaint. But for Ms. Dyson's bankruptcy case, there would be no reason for this matter to be in federal court.

This judge, sitting in another Court, wrote an opinion which summarizes her views on abstention. *Republic Readers's Service, Inc. v. Magazine Service Bureau, Inc. (In re Republic Reader's Service, Inc.)*, 81 B.R. 422 (Bankr. S.D. Tex. 1987). The criteria listed in that opinion apply to this case.

Therefore, it is ORDERED that this adversary case is dismissed without prejudice pursuant to 28 U.S.C. § 1334.

Dated: March 5, 1996

MARGARET A. MAHONEY
CHIEF BANKRUPTCY JUDGE